

REPRESENTATIVES FOR PETITIONER:

Stephen H. Paul – Baker & Daniels LLP
Jon B. Laramore – Baker & Daniels LLP
Brent A. Auberry – Baker & Daniels LLP

REPRESENTATIVES FOR RESPONDENT:

Gregory F. Zoeller – Attorney General of Indiana
Jennifer E. Gauger – Deputy Attorney General

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

MEIJER STORES LTD,	)	Petition Nos.:	89-030-02-1-4-00417
	)		89-030-02-1-4-00415
	)		89-030-02-1-4-00416
Petitioner,	)		89-030-03-1-4-00418
	)		89-030-03-1-4-00419
	)		89-030-03-1-4-00420
	)		89-030-05-1-4-00004
v.)		
	)	Parcels:	46-21-000-107.000-29
	)		46-21-000-113.010-29
	)		46-21-000-110.000-29
WAYNE TOWNSHIP ASSESSOR,)		
	)	County:	Wayne
	)	Township:	Wayne
Respondent.)		
	)	Assessment Years:	2002, 2003, and 2005

On Remand from the Indiana Tax Court
Cause No. 49T10-0609-TA-89

May 12, 2010

FINAL DETERMINATION ON REMAND FROM TAX COURT

The Indiana Board of Tax Review (Board) has reviewed the Indiana Tax Court’s March 26, 2010, Order, a copy of which is attached to this determination. Pursuant Indiana Code § 6-1.1-

15-8, the Board now makes its Final Determination on the issue specified by the Tax Court in its instructions.

1. Meijer Stores LTD (Meijer), the Petitioner, is the owner of approximately 26 acres of commercial property in Richmond on which it constructed a 158,114 square foot discount retail store and adjacent parking lot, which opened in 2000.
2. Meijer timely filed an appeal of its 2002 assessment on December 24, 2003. The Wayne County Property Tax Assessment Board of Appeals (PTABOA) held a hearing on August 19, 2004, and issued a Form 115 Notification of Final Assessment Determination affirming the assessment on September 17, 2004. For 2003, Meijer timely filed its appeal on May 6, 2004. The PTABOA held a hearing on October 14, 2004, and issued a Form 115 affirming the assessment on November 19, 2004. For 2005, Meijer timely filed its appeal on May 9, 2005. The PTABOA held a hearing on June 25, 2005, and issued a Form 115 affirming the assessment on September 28, 2005.
3. Pursuant to Indiana Code § 6-1.1-15-3, Meijer timely filed Form 131 Petitions for Review of Assessment, petitioning the Board to conduct an administrative review of its 2002, 2003 and 2005 assessments on October 14, 2004, December 16, 2004, and October 15, 2005, respectively. In its petitions, Meijer argued that its parcels were assessed in excess of their market value-in-use and presented an appraisal to support its claim. (*Transcript of Proceedings before the Indiana Board of Tax Review (Trans.)*, p. 155-175.)
4. The Board held a consolidated hearing on March 16, 2006, and on August 16, 2006, the Board issued its Final Determination denying the petitions. In its final determination, the Board found that the Petitioner failed to establish a prima facie case for a reduction in the assessed value of its property because the appraisal's sales comparison and income approach analyses were based on properties that were not comparable to the subject property. The Board also rejected the appraiser's obsolescence deduction in his cost analysis. (*Trans.*, p. 155-175.)

5. On September 27, 2006, the Petitioner filed its “Verified Petition for Judicial Review of a Final Determination of the Indiana Board of Tax Review” with the Indiana Tax Court. In its Petition, Meijer requested that the Board’s determination be set aside because it was unsupported by substantial evidence. (*Trans.*, p.176-207.)

6. The Tax Court heard the parties’ oral arguments on March 17, 2008, and issued an order on March 26, 2010. In his order, Judge Fisher reversed the Board’s determination and remanded the matter back to the Board to “instruct the appropriate assessing officials to assess the subject property consistent with this opinion.” *Meijer Stores Limited Partnership v. Wayne Township Assessor*, Cause No. 49T10-0609-TA-89 (Mar. 26, 2010).

FINAL DETERMINATION

7. The Board therefore finds that the Petitioner established the market value-in-use of its property was \$6,300,000 for the 2002, 2003 and 2005 assessment years. The Board orders the Wayne Township and Wayne County Assessors to change the Petitioner’s assessment to \$6,300,000 for each of the years at issue.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS ON REMANDED AND REFERRED CASES -

Appeal rights concerning remanded and referred cases are governed by the provisions of Indiana Code § 6-1.1-15-8 and § 6-1.1-15-9. A case remanded under § 6-1.1-15-8(a) is appealed under Indiana Code § 4-21.5-5-16. An appeal of a corrected assessment made by the county property tax assessment board of appeals must be initiated in accordance with Indiana Code § 6-1.1-15-3 or § 6-1.5-5. You may also be entitled petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. . The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>, The Indiana Trial Rules are available on the Internet at <http://www.in.gov/judiciary/rules/trial/proc/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.